

1 HB569
2 209932-2
3 By Representative Carns (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 30-MAR-21

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Jefferson County and the General
14 Retirement System for Employees of Jefferson County; to amend
15 Section 45-37-123.20, Sections 45-37-123.21 and 45-37-123.22,
16 as amended by Act 2019-243, 2019 Regular Session, Sections
17 45-37-123.23, 45-37-123.28, 45-37-123.29, 45-37-123.51,
18 45-37-123.83, 45-37-123.84, and 45-37-123.100, Section
19 45-37-123.101 as amended by Act 2019-243, 2019 Regular
20 Session, Section 45-37-123.102, Sections 45-37-123.103 and
21 45-37-123.104, as amended by Act 2019-243, 2019 Regular
22 Session, and Sections 45-37-123.106 and 45-37-123.194 of the
23 Code of Alabama 1975; to authorize the pension board to
24 establish procedures for the election of board members number
25 four and five; to authorize the pension board to post notice
26 of the annual meeting on its website and to meet and conduct
27 business by video or telephone conference; to authorize the

1 pension board to provide tuition reimbursement to its
2 employees; to authorize the pension board to participate in
3 emergency state and federal relief programs; to authorize the
4 pension board to recover costs and reasonable attorney's fees
5 in actions in which the pension board seeks to recover funds
6 of the retirement system erroneously paid to members,
7 beneficiaries, and third parties; to clarify terminology used
8 to describe a joint survivorship pension election; to
9 eliminate the minimum non-service connected disability benefit
10 for disabilities occurring on or after the effective date of
11 this act; to clarify language related to lump-sum payments to
12 a deceased member's beneficiary; to change the required
13 minimum distribution age from 70 1/2 to 72 years of age; and
14 to make technical corrections.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 45-37-123.20, Sections
17 45-37-123.21 and 45-37-123.22, as amended by Act 2019-243,
18 2019 Regular Session, Sections 45-37-123.23, 45-37-123.28,
19 45-37-123.29, 45-37-123.51, 45-37-123.83, 45-37-123.84, and
20 45-37-123.100, Section 45-37-123.101 as amended by Act
21 2019-243, 2019 Regular Session, Section 45-37-123.102,
22 Sections 45-37-123.103 and 45-37-123.104, as amended by Act
23 2019-243, 2019 Regular Session, and Sections 45-37-123.106 and
24 45-37-123.194 of the Code of Alabama 1975, are amended to read
25 as follows:

26 "§45-37-123.20.

1 "(a) Provisions of records. The county shall provide
2 all records and documents necessary to determine an employee's
3 status and eligibility for membership in the plan, upon which
4 a service record shall be created.

5 "(b) Contributions. The county shall contribute an
6 amount equal to six percent of an employee's compensation from
7 the county's general assets to the trust fund, as provided in
8 Section 45-37-123.80. The county also shall withhold six
9 percent of an employee's compensation each pay period as
10 provided in Section 45-37-123.82. The county also shall
11 contribute any amounts received pursuant to Section 45-37-233,
12 attributable to pistol permits. ~~These funds shall be given to
13 the county treasurer for deposit into the trust fund.~~

14 Additionally, the county may pay into the trust fund from the
15 general funds of the county, in such installments or times as
16 the county may elect, an amount or amounts sufficient to
17 assure that the system is actuarially sound.

18 "§45-37-123.21.

19 "(a) General administration. The role of the pension
20 board is established by the State of Alabama through
21 legislative act. The pension board is responsible for the
22 general administration and proper operation of the plan. The
23 pension board also is responsible for making effective the
24 provisions of the act.

25 "(b) Composition of pension board. The pension board
26 is comprised of five members, designated respectively as

1 member number one, member number two, member number three,
2 member number four, and member number five.

3 "(1) MEMBER NUMBER ONE. Member number one shall be
4 appointed by the governing body of the county and shall serve
5 as chairman of the pension board. Member number one shall have
6 a minimum of 10 years' experience in an executive capacity in
7 insurance, investment management/consultant, or actuarial
8 work. The initial term of member number one shall be for one
9 year; and thereafter the term of member number one shall be
10 for three years.

11 "(2) MEMBER NUMBER TWO. Member number two shall be
12 appointed by the judge of probate, who is an elected official
13 of the county. Member number two shall have a minimum of 10
14 years' experience in an executive capacity in investing or
15 banking. The initial term of member number two shall expire at
16 the end of two years; and thereafter the term of member number
17 two shall be for three years.

18 "(3) MEMBER NUMBER THREE. Member number three shall
19 be appointed by the Jefferson County Personnel Board. Member
20 number three shall have a minimum of 10 years' experience as a
21 certified public accountant. The initial term of member number
22 three shall expire at the end of three years; and the term of
23 member number three shall be for three years.

24 "(4) MEMBERS NUMBER FOUR AND FIVE. Member number
25 four and member number five shall be elected by the members of
26 the system. Member number four shall be a retired member of
27 the system. Member number five shall be a member of the

1 system. The initial term of member number four shall be for
2 one year; and thereafter the term of member number four shall
3 be for three years. Member number five shall be elected for
4 terms of three years.

5 "(c) Procedure for the election of board members
6 four and five and selection of the election board.

7 "(1) Elections of member number four and member
8 number five shall be conducted by separate paper or electronic
9 ballot pursuant to procedures established by the pension
10 board.

11 "(2) The members of the system shall elect member
12 number four and member number five. ~~The election shall be held~~
13 ~~at the annual meeting of the members of the system provided~~
14 ~~for in Section 45-37-123.22(b)(14), or at a special meeting~~
15 ~~called for that purpose; provided that there shall be no such~~
16 ~~election at a special meeting unless the pension board has~~
17 ~~given~~ The pension board shall give at least 15 days' written
18 notice of the time and ~~place~~ procedure of the election by
19 posting the same in at least three prominent places in the
20 county courthouse and by delivering three copies of the same
21 to the county manager who shall inform all persons on the
22 county payroll of the election; however, the failure to inform
23 all such employees of the election shall not invalidate the
24 election.

25 "(3) The elections of member number four and member
26 number five shall be supervised by three members of the system
27 serving as the election board. The members that serve as the

1 election board shall be appointed by the members of the system
2 at the annual meeting as provided for in Section
3 45-37-123.22(b) (14). If the members of the system fail to
4 appoint members to the election board, or if any member so
5 appointed cannot or will not serve on the election board, the
6 pension board shall appoint the members of the election board.
7 The pension board may prescribe additional rules for the
8 elections of member number four and member number five not
9 inconsistent with the provisions hereof.

10 "(d) Vacancy, how filled. If a vacancy occurs on the
11 pension board, such vacancy shall be filled for the unexpired
12 term in the same manner as the office was previously filled.

13 "(e) Resignation or removal of pension board member.
14 A member of the pension board may resign by delivering a
15 written resignation to the executive director or be removed by
16 the unanimous vote of the other members of the pension board
17 at a duly called meeting of the pension board.

18 "(f) Secretary. The secretary of the board shall be
19 the executive director.

20 "(g) Salary and expenses. The members of the pension
21 board shall serve without pay, but shall be reimbursed for
22 expenses actually paid or incurred in the discharge of their
23 official duties, and shall suffer no loss of salary or wages,
24 if employed by the county, through service on the board.

25 "§45-37-123.22.

26 "(a) The pension board shall be responsible for the
27 general administration and proper operation of the plan, and

1 shall administer the plan for the exclusive benefit of the
2 members and their beneficiaries, subject to the specific terms
3 of the plan. The pension board shall administer the plan in
4 accordance with its terms and shall have the power and
5 discretion to construe the terms of the plan and the act and
6 to determine all questions arising in connection with the
7 administration, interpretation, and application of the plan.
8 Any such determination by the pension board shall be
9 conclusive and binding upon all persons. The pension board may
10 establish procedures, correct any defect, supply any
11 information, or reconcile any inconsistency in such manner and
12 to such extent as shall be deemed necessary or advisable to
13 carry out the purpose of the plan; provided, however, that any
14 procedure, discretionary act, interpretation, or construction
15 shall be done in a nondiscriminatory manner based upon uniform
16 principles consistently applied and shall be consistent with
17 the intent that the plan shall continue to be deemed a
18 qualified plan under the terms of § 401(a), Internal Revenue
19 Code, and shall comply with the terms of the act and all
20 regulations issued pursuant thereto. The pension board shall
21 have all powers necessary or appropriate to accomplish the
22 pension board's duties under the plan.

23 (b) The pension board shall be charged with the
24 duties of the general administration of the plan as set forth
25 under the terms of the plan, including, but not limited to,
26 all of the following:

1 "(1) To determine all questions relating to the
2 eligibility of employees to participate or remain a member
3 hereunder and to receive benefits under the plan.

4 "(2) To compute and certify the amount and the kind
5 of benefits to which any member shall be entitled hereunder.

6 "(3) To maintain all necessary records for the
7 administration of the plan.

8 "(4) To interpret the provisions of the plan and to
9 make and publish such rules for regulation of the plan as are
10 consistent with the act and the terms hereof.

11 "(5) To establish rules and regulations for the
12 administration of plan funds and for the transaction of the
13 plan's business.

14 "(6) To exercise any investment discretion in a
15 manner designed to accomplish specific objectives related to
16 the plan's long-term and short-term liquidity needs.

17 "(7) To prepare and provide active members with an
18 annual estimated benefit statement notifying them of their
19 estimated benefits.

20 "(8) To prepare and provide retired members with a
21 one-time notification of their benefit payment amounts, and to
22 provide retired members with periodic notification of cost of
23 living benefit increases which may be awarded by the pension
24 board in any form, lump sum, or otherwise.

25 "(9) To determine the validity of, and take
26 appropriate action with respect to, any divorce decree, or
27 other judicial order presented to the pension board.

1 "(10) To assist any member regarding the member's
2 rights, benefits, or elections available under the plan.

3 "(11) To, by written agreement or designation,
4 appoint at its option an investment manager, qualified under
5 the Investment Company Act of 1940, as amended, investment
6 adviser, or other agent to provide direction regarding any or
7 all of the plan assets. Such appointment shall specifically
8 identify the plan assets with respect to which the investment
9 manager or other agent shall have authority to direct the
10 investment.

11 "(12) To establish an investment policy.

12 "(13) To establish a privacy policy for the
13 protection of a member's personal information, subject to
14 applicable law.

15 "(14) To hold an annual meeting of the members at
16 least once per calendar year and provide at least seven days'
17 written notice of the meeting to all members on the retirement
18 system website or at either their place of work, last known
19 address, or by electronic mail.

20 "(15) To determine appropriate rules and regulations
21 to determine how much service per calendar year is equivalent
22 to one year of service, in accordance with Section
23 45-37-123.84.

24 "(16) To develop rules and regulations, amend the
25 plan, subject to the provisions of Section 45-37-123.150, and
26 provide for increases in benefits, subject to the provisions
27 of Section 45-37-123.151.

1 "(17) Notwithstanding any provisions of the plan to
2 the contrary, to amend the plan in order to comply with
3 federal law, and any such amendment shall be given full effect
4 under Alabama law.

5 "(18) To purchase insurance coverage in such forms
6 and amounts as may be determined by the pension board.

7 "(19) To provide employees of the system with
8 health, dental, vision, and other forms of insurance, paid
9 vacation, ~~and~~ sick leave, tuition reimbursement, and any other
10 benefits as determined by the pension board.

11 "(20) To provide members of the system with
12 voluntary life, disability, and other forms of insurance, the
13 cost of which is paid by the member.

14 "(21) To conduct meetings and business by video
15 conference, telephone conference, or electronic communication.

16 "(22) To participate in emergency relief programs of
17 the United States, the State of Alabama, and their
18 departments, agencies, and instrumentalities.

19 "(23) To recover costs and reasonable attorney's
20 fees in actions in which the pension board seeks to recover
21 funds of the retirement system erroneously paid to members,
22 beneficiaries, and third parties.

23 "(c) Failure of the pension board to follow any
24 provisions or procedures in the plan shall not constitute a
25 waiver of any provision or procedure contained herein.

26 "§45-37-123.23.

1 "(a) Records. The pension board shall keep ~~a record~~
2 ~~of all of its proceedings, which shall be open to public~~
3 ~~inspection~~ minutes of its meetings. Additionally, the pension
4 board shall keep all other books of account, records,
5 policies, compensation records, service records, and other
6 data that may be necessary for proper administration of the
7 plan and shall be responsible for supplying all information
8 and reports to the Internal Revenue Service, members,
9 beneficiaries, and others as may be required by law.

10 "(b) Correction of records.

11 "(1) The pension board shall correct any error in a
12 member's service record which the pension board concludes is
13 necessary to correct or remove an injustice or prevent a
14 member from receiving less or more than such member is
15 entitled to receive under the plan. The pension board shall
16 adopt written rules prescribing the procedure the pension
17 board shall follow in considering whether an error in an
18 employee's service record should be corrected. Correction of
19 service records shall be subject to the following limitations:

20 "a. No error in the service record shall be
21 corrected except by the pension board.

22 "b. The pension board shall not correct any error in
23 an employee's service record until it has accorded, or offered
24 to accord, the employee a hearing regarding the proposed
25 correction, which hearing shall not be conducted until after
26 the employee has received at least two weeks' notice of the

1 nature of the proposed correction and of the time and place at
2 which the proposed correction shall be considered.

3 "c. No correction of an error shall be made at an
4 employee's request unless the employee files with the pension
5 board his or her written request for such correction before
6 the date that is one year subsequent to the employee's
7 discovery of the error requested to be corrected; provided,
8 however, the pension board may excuse an employee's failure to
9 file such application for correction within one year following
10 his or her discovery of such error if the pension board finds
11 that excusing such failure would be most equitable.

12 "(2) If the pension board determines that any amount
13 has been erroneously deducted from the compensation of an
14 employee and paid into the trust fund as an employee
15 contribution, or that any amount has been otherwise paid into
16 the trust fund erroneously ~~upon~~ on behalf of any employee,
17 such amount shall be refunded to the employee, and any amount
18 which may have been paid erroneously to match such erroneous
19 contribution shall be refunded. The pension board is
20 authorized to determine whether interest shall be payable on
21 any amounts returned and to determine the amount of ~~such~~
22 interest to be paid, if any; provided, however, that no
23 interest shall be paid to any employee responsible for the
24 error resulting in the erroneous payment.

25 "(c) Audit. The pension board shall cause an audit
26 to be made of its affairs by a certified public accountant at
27 least once each calendar year.

1 "§45-37-123.28.

2 "(a) Claims for benefits under the plan shall be
3 filed in writing with the ~~pension coordinator~~ executive
4 director on forms provided by the pension board in accordance
5 with procedures established by the pension board ~~and/or the~~
6 ~~pension coordinator~~ or the executive director, or both. The
7 procedure and documents to be produced by a member or
8 beneficiary may differ depending on the type of benefit claim
9 being made.

10 "(b) The pension board may allow a properly
11 designated power of attorney to act on behalf of a member or
12 beneficiary so long as the act is authorized under the terms
13 of the power of attorney documentation.

14 "§45-37-123.29.

15 "Any employee, former employee, or beneficiary of
16 either, who has been denied a benefit by a decision of the
17 pension board pursuant to a claim made under Section
18 45-37-123.28 shall be entitled to request the pension board to
19 give further consideration to a claim by filing with the
20 pension board a written request for a hearing. Such request
21 shall be filed with the pension board no later than 60 days
22 after receipt of the written notification of denial. The
23 pension board shall then conduct a hearing as soon as
24 administratively feasible. The hearing shall typically be held
25 at the pension board's regular ~~monthly~~ meeting. A final
26 decision as to the claim shall be made by the pension board as
27 soon as administratively feasible after receipt of the appeal

1 and the claimant shall be notified in writing of the decision.
2 In the event of a denial of a disability retirement benefit
3 claim, a new disability retirement benefit claim may not be
4 made for at least six months from the date of the last appeal
5 denial, unless otherwise determined in the discretion of the
6 pension board or the ~~pension coordinator~~ executive director.

7 "§45-37-123.51.

8 "The pension board shall determine the eligibility
9 of each employee for membership in the system based upon
10 information furnished by ~~the Jefferson County Personnel Board~~
11 or its designated agent. Such determination shall be
12 conclusive and binding upon all persons. Additionally, if the
13 pension board makes a determination upon an employee's date of
14 hire by the employer that such employee is an eligible
15 employee, then such employee shall continue to participate in
16 the plan, even if such employee subsequently no longer meets
17 the definition of an eligible employee under Section
18 45-37-123.01, unless the pension board's initial determination
19 was erroneous.

20 "§45-37-123.83.

21 "The pension board and county are authorized to
22 contribute to the trust fund any monies received in the form
23 of donations, gifts, appropriations, bequests, or otherwise,
24 or derived therefrom. Additionally, any member or beneficiary
25 who fails to make timely application for the amount of his or
26 her employee contributions pursuant to Section 45-37-123.104
27 shall be deemed to have forfeited and donated ~~such~~ employee

1 contributions to the trust fund. In no event shall any
2 forfeitures under the plan result in an increase in the
3 benefit to be paid to any member. The ~~pension coordinator~~
4 executive director shall provide one certified letter to the
5 member within 60 days following the member's termination of
6 employment advising the member of the foregoing forfeiture
7 provisions. See also Section 45-37-123.194 for additional
8 forfeiture provisions.

9 "§45-37-123.84.

10 "Except as otherwise specifically stated herein, the
11 rules below shall apply in determining length of service for
12 all purposes under the plan.

13 "(1) In no case may more than one year of service be
14 credited for service in one calendar year.

15 "(2) A member shall work over one-half of a month,
16 including all calendar days, in order to earn one month of
17 service.

18 "(3) Except as otherwise specifically stated herein
19 or required by federal law, a member shall not be allowed
20 service credit for any period of more than one-half of a month
21 during which such member is absent without pay.

22 "(4) A member shall receive service credit for any
23 and all paid leaves of absence, including a paid Family and
24 Medical Leave Act leave, regardless of the length of the leave
25 and regardless of the performance of any services. For
26 member's terminating employment between August 1, 1993 and
27 January 31, 2010, up to three months of service credit was

1 granted to members on unpaid Family and Medical Leave Act
2 leaves.

3 "(5) Years of paid membership time are used in com-
4 puting benefits under the plan, as are months of paid member-
5 ship time. Months shall be converted into a fraction of a year
6 as follows:

7	"1 month	.0833
8	"2 months	.1667
9	"3 months	.2500
10	"4 months	.3333
11	"5 months	.4167
12	"6 months	.5000
13	"7 months	.5833
14	"8 months	.6667
15	"9 months	.7500
16	"10 months	.8333
17	"11 months	.9167
18	"12 months	1.0000

19 "(6) The pension board may disregard a fractional
20 part of a year in computing paid membership time or unpaid
21 membership time that is less than one-twelfth of a year.

1 "(7) Notwithstanding any provision of the plan to
2 the contrary, effective December 12, 1994, contributions,
3 benefits, and service shall be provided in accordance with §
4 414(u), Internal Revenue Code, relating to military leave.

5 "(8) Service before and after ~~requires~~ reemployment
6 by the county shall also be calculated in accordance with
7 Section 45-37-123.54.

8 "§45-37-123.100.

9 "(a) Superannuation retirement benefit.

10 "(1) ELIGIBILITY. A member shall be eligible for a
11 superannuation retirement benefit if:

12 "a. The member has 30 or more years of paid
13 membership time, regardless of age;

14 "b. The member has 10 or more years of paid
15 membership time and has attained the age of 60; or

16 "c. The member has 30 years of service, 20 years of
17 which are paid membership time, and has attained the age of
18 55.

19 "(2) CALCULATION OF BENEFIT. If a member meets the
20 foregoing eligibility criteria, then the member shall be
21 eligible to retire and receive a monthly benefit for the
22 remainder of his or her life to be determined by the following
23 formula:

24 "a. Two and one-half percent multiplied by the basic
25 average salary multiplied by the number of years of paid
26 membership time; plus

1 "b. ~~Five-eighths~~ Five-eighths of one percent
2 multiplied by the basic average salary multiplied by the
3 number of years of unpaid membership time, if applicable.

4 "(3) SEVENTY-FIVE PERCENT LIMITATION.

5 Notwithstanding the foregoing, no member shall receive any
6 retirement benefit in excess of 75 percent of his or her basic
7 average salary. This 75 percent limitation shall only be
8 applied at the time that the beginning retirement benefit is
9 determined and shall not limit increases granted to retired
10 members subsequent to their retirement. Additionally, this 75
11 percent limitation shall be applied before applying any
12 actuarial adjustments to reflect ~~survivor benefits~~ an election
13 of a joint survivorship pension.

14 "(4) SECTION 401(a)(17), INTERNAL REVENUE CODE,
15 LIMITATION. Notwithstanding the foregoing provisions of this
16 subsection, after applying the § 401(a)(17), Internal Revenue
17 Code, compensation limit set forth in subdivision (11) of
18 Section 45-37-123.01, the pension board, with the assistance
19 of an actuary, shall determine the adjustments to any or all
20 of the components or factors of the benefit formula, other
21 than paid membership time, unpaid membership time, and/or the
22 basic average salary as limited by the compensation limit that
23 would be necessary to yield the maximum benefit specified
24 under this part, without regard to § 401(a)(17), Internal
25 Revenue Code; the pension board shall then use such adjusted
26 benefit formula to determine the maximum benefit due from the

1 plan, subject, however, to Subpart 6, Internal Revenue Code,
2 Section 415 limitations.

3 "(5) ELIGIBILITY FOR JOINT SURVIVORSHIP PENSION. A
4 member that is entitled to a superannuation retirement benefit
5 shall be entitled to instead elect a joint survivorship
6 pension, as provided for under Section 45-37-123.101.

7 "(6) DEATH. If a member dies while receiving payment
8 of a superannuation retirement benefit, the return of any
9 remaining portion of his or her employee contributions shall
10 be governed by Section 45-37-123.104(5)d. If the member has
11 received payments in an amount at least equal to the amount of
12 employee contributions he or she made to the plan at the time
13 of death, then no further payments shall be made upon the
14 member's death.

15 "(b) Early retirement benefits.

16 "(1) REGULAR EARLY RETIREMENT. A member may elect,
17 but is not required, to retire prior to age 60 if the member
18 has completed 30 or more years of service, 10 of which, but
19 not the total 30, are paid membership time. In the event that
20 a member makes such an election, such member shall be entitled
21 to receive an early retirement benefit equal to the member's
22 benefit that would be payable pursuant to subsection (a), but
23 with an actuarial equivalent reduction for each year less than
24 60 years of age, as follows:

25	"Age of Member on	Reduced Retirement Benefit on
26	Last Birthday Pre-	Account of Retirement before

Age 60 Expressed as a Percent-
age of the Superannuation Re-
tirement Benefit under subsec-
tion (a)

1	ceding Retirement	
2	"59	93%
3	"58	87%
4	"57	82%
5	"56	77%
6	"55	72%
7	"54	68%
8	"53	64%
9	"52	60%
10	"51	57%
11	"50	54%
12	"49	51%
13	"48	48%

14 "(2) TWENTY-FIVE YEAR EARLY RETIREMENT BENEFIT. On
15 and after April 24, 2003, a member with at least 25 years of
16 paid membership time, but less than 30 years of paid
17 membership time, who is not eligible for a superannuation
18 retirement benefit may elect to retire early, but is not
19 required to do so. In the event that a member makes such an
20 election, such member shall be entitled to receive a 25-year

1 early retirement benefit equal to the member's benefit that
2 would be payable under superannuation retirement benefit
3 pursuant to subsection (a), but with an actuarial equivalent
4 reduction of seven percent for each whole year less than 30
5 years. For purposes of the seven percent reduction, months are
6 not counted.

7 "(3) ELIGIBILITY FOR JOINT SURVIVORSHIP PENSION. A
8 member that is entitled to an early retirement benefit shall
9 be entitled to instead elect a joint survivorship pension, as
10 provided for under Section 45-37-123.101.

11 "(4) DEATH. If a member dies while receiving payment
12 of an early retirement benefit, the return of any remaining
13 portion of his or her employee contributions shall be governed
14 by Section 45-37-123.104(5)d. If the member has received
15 payments in an amount at least equal to the amount of employee
16 contributions he or she made to the plan at the time of death,
17 then no further payments shall be made upon the member's
18 death.

19 "(c) Deferred retirement benefits.

20 "(1) GENERAL RULES FOR DEFERRED RETIREMENT BENEFITS.

21 "a. Ineligibility for Deferred Retirement Benefit if
22 Eligible for Superannuation Retirement Benefit. If a member is
23 eligible for a superannuation retirement benefit, then he or
24 she is not eligible for a deferred retirement benefit.

25 "b. Withdrawal of Employee Contributions. A member
26 who has elected a deferred retirement benefit may at any time
27 before payment of such benefit commences withdraw in full his

1 or her employee contributions, without interest. However, no
2 deferred retirement benefit shall be paid to a member who
3 withdraws such employee contributions.

4 "c. Eligibility for Joint Survivorship Pension. A
5 member that is entitled to a deferred retirement benefit shall
6 be entitled to instead elect a postretirement joint
7 survivorship pension provided for under Section 45-37-123.101.

8 "d. Death. If a member dies before or after payment
9 of his or her deferred retirement benefit commences, the
10 return of his or her employee contributions to the plan shall
11 be governed by Section 45-37-123.104(5)b. or d., respectively.

12 "(2) REGULAR DEFERRED RETIREMENT BENEFIT.

13 "a. Eligibility. Subject to the general eligibility
14 requirements stated in subdivision (1), a member may elect a
15 regular deferred retirement benefit if he or she has at least
16 10 years of paid membership time.

17 "b. Calculation of Benefit/Vesting. The regular
18 deferred retirement benefit shall be calculated by multiplying
19 the superannuation retirement benefit that the member would
20 have been entitled to had he or she been 60 years of age when
21 he or she terminated employment, times a percentage, which
22 percentage shall be determined based upon the member's paid
23 membership time, as follows:

24 "1. Ten years of paid membership time: 50 percent.

25 "2. Eleven years of paid membership time: 60
26 percent.

1 "3. Twelve years of paid membership time: 70
2 percent.

3 "4. Thirteen years of paid membership time: 80
4 percent.

5 "5. Fourteen years of paid membership time: 90
6 percent.

7 "6. Fifteen or more years of paid membership time:
8 100 percent.

9 "c. Commencement of Payment. Payment of a member's
10 regular deferred retirement benefit shall commence upon the
11 date that the member reaches the age of 60 and shall continue
12 for the life of the member, regardless of whether the member
13 is employed with another employer at the time payment is to
14 commence.

15 "(3) INVOLUNTARY DEFERRED RETIREMENT BENEFIT.

16 "a. 20/55 Provisions. Subject to the general
17 eligibility requirements stated in subdivision (1), a member
18 who is not entitled to voluntarily retire pursuant to
19 subsection (a), superannuation retirement benefit, or
20 subdivision (1) of subsection (b), regular early retirement
21 benefit, but who is involuntarily retired after accumulating
22 20 years of service with the county, at least 10 of which is
23 paid membership time, shall be entitled to receive a monthly
24 benefit computed in accordance with the formula set forth in
25 subsection (a), superannuation retirement benefit, the payment
26 of which shall commence upon his or her retirement if he or
27 she has attained the age of 55; if the member has not attained

1 the age of 55, payment shall be delayed until the member's
2 attainment of age 55.

3 "b. 18/60 Provisions. Subject to the general
4 eligibility requirements stated in subdivision (1) and to this
5 paragraph, a member who is not entitled to voluntarily retire
6 pursuant to subsection (a), superannuation retirement benefit,
7 or subdivision (1) of subsection (b), regular early retirement
8 benefit, but who is involuntarily retired after accumulating
9 18 years of service with the county, at least 10 of which is
10 paid membership time, shall be entitled to receive a monthly
11 benefit computed in accordance with the formula set forth in
12 subsection (a), superannuation retirement benefit, the payment
13 of which shall commence as set forth below.

14 "1. Member contributions. In order to receive a
15 benefit under paragraph b., a member shall contribute to the
16 plan from the date of the member's involuntary retirement to
17 the date that the benefit commences, by the last day of each
18 calendar month: (i) the amount of employee contributions that
19 he or she would have made if he or she had continued to be
20 employed by the county at the same salary as he or she was
21 receiving at the time of his or her termination of employment,
22 plus (ii) the amount which the county would have contributed
23 to the plan on the member's behalf if he or she had continued
24 to be employed by the county at the same salary as he or she
25 was receiving at the time of his or her termination of
26 employment.

1 "2. Commencement of payment. Payment of a member's
2 involuntary deferred retirement benefit under paragraph b.
3 shall commence upon the earlier of: (i) the date on which the
4 member attains the age of 60; or (ii) the date on which the
5 member would have completed 30 years of service with the
6 county, if he or she had continued employment with the county,
7 regardless of whether the member is employed with another
8 employer at the time payment is to commence; provided however,
9 that if at the time payment of the deferred retirement benefit
10 commences, he or she has not attained the age of 60, the
11 amount of his or her monthly benefit computed in accordance
12 with subsection (a), superannuation retirement benefit, shall
13 be reduced in the same manner as the early retirement benefit
14 is reduced under subdivision (1) of subsection (b).

15 "(d) Offset for payment of hospital, surgical, and
16 medical benefits. To the extent that the county, with
17 sufficient advance written notice, so directs the system, the
18 system shall offset the monthly benefit amount payable to a
19 retired member by an amount, determined by the county, needed
20 to pay for the member's premiums for certain hospital,
21 surgical, and/or medical benefits sponsored by the county. The
22 system shall pay such withheld amounts to the county on a
23 monthly basis. In the event that the county makes an error in
24 its written direction to the system, the system shall not be
25 required to correct such error by adjusting its withholdings;
26 rather, such error shall be corrected between the county and
27 the member. At any time a written opinion from a competent

1 actuary selected by the commission is made indicating that the
2 funds and assets of the system are not actuarially sound, then
3 the benefits of this subsection shall cease to be in effect
4 until such time as an actuary appointed by the commission
5 gives a written opinion that the system is financially sound.
6 Any such actuarial services shall be paid for by the system.

7 "§45-37-123.101.

8 "(a) Election of postretirement joint survivorship
9 pension. In lieu of a benefit under subsections (a) to (c),
10 inclusive, of Section 45-37-123.100, superannuation retirement
11 benefit, early retirement benefit, or deferred retirement
12 benefit, respectively, a member may elect to receive a
13 postretirement joint survivorship pension.

14 "(1) PERCENTAGE ELECTION. In the event that a member
15 desires to elect pursuant to this subsection to receive a
16 postretirement joint survivorship pension, he or she shall
17 elect one of the following percentages, which election shall
18 be the actuarial equivalent of the monthly retirement benefit
19 provided in subsections (a) to (c), inclusive, of Section
20 45-37-123.100, as applicable:

21 "a. Reduced monthly benefit payable over the life of
22 the member and the life of the member's designated
23 beneficiary, 50 percent postretirement joint survivorship
24 pension.

25 "b. Reduced monthly benefit payable over the life of
26 the member and the life of the member's designated

1 beneficiary, 66 and two-thirds percent postretirement joint
2 survivorship pension.

3 "c. Reduced monthly benefit payable over the life of
4 the member and the life of the member's designated
5 beneficiary, 75 percent postretirement joint survivorship
6 pension.

7 "d. Reduced monthly benefit payable over the life of
8 the member and the life of the member's designated
9 beneficiary, 100 percent postretirement joint survivorship
10 pension.

11 "(2) FORM OF POSTRETIREMENT JOINT SURVIVORSHIP
12 PENSION. In addition to electing a percentage under
13 subdivision (1), a member who desires to elect to receive a
14 postretirement joint survivorship pension shall elect one of
15 the following two forms:

16 "a. Pop-up Form. Under the pop-up form, if the
17 member's beneficiary predeceases the retired member, then in
18 the month following the beneficiary's death, the member's
19 monthly pension benefit shall pop-up to the amount that would
20 have been payable to the member under subsections (a) to (c),
21 inclusive, of Section 45-37-123.100, as applicable, as if the
22 member had never elected a postretirement joint survivorship
23 pension; the cost of a pop-up form is more than the cost of
24 the regular form described in paragraph b.

25 "b. Regular Form. Under the regular form, if the
26 member's beneficiary predeceases the retired member, then the
27 member shall continue to receive the same amount that he or

1 she was receiving prior to the beneficiary's death. The amount
2 of the benefit payment shall not change.

3 "(b) Timing of election. Except as provided in the
4 immediately following sentence, in the event that a member
5 desires to elect a postretirement joint survivorship pension,
6 he or she shall do so in writing, on a form provided by the
7 pension board, no later than the member's last day of
8 employment. In the event that a member previously elected a
9 deferred retirement benefit and desires to elect a
10 postretirement joint survivorship pension, he or she shall do
11 so in writing, on a form provided by the pension board, no
12 later than the day before the member's sixtieth birthday.

13 "(c) Timing of payments. Payment to the member
14 commences on the day after the member terminates employment
15 and shall continue to be paid each month thereafter until the
16 member's death. If the member's beneficiary survives after the
17 death of the member, the postretirement joint survivorship
18 pension payments shall be made monthly to the beneficiary,
19 beginning on the first day of the month following the member's
20 death, assuming that the pension board is notified of the
21 death in a timely manner. Payments shall terminate with the
22 first monthly payment preceding the second to die of the
23 member and the beneficiary. In the event that a refund is to
24 be paid pursuant to Section 45-37-123.104(4)c., such payment
25 shall be made as soon as administratively feasible following
26 the member's/beneficiary's deaths.

1 "(d) Cost of postretirement joint survivorship
2 pension. To the extent that a member elects payment of a
3 postretirement joint survivorship pension for his or her
4 beneficiary, the benefit otherwise payable to the member shall
5 be actuarially reduced to reflect the ~~survivorship benefits~~
6 election of a joint survivorship pension.

7 "(e) Changes in election. At any time before
8 termination of employment, the member may cancel his or her
9 election to have payment in such form by completing a form
10 provided by the pension board. Except as otherwise stated
11 herein, the member's election of a postretirement joint
12 survivorship pension shall be irrevocable once the member
13 terminates employment.

14 "(1) DEATH. a. Death of Member Prior to Actual
15 Retirement. In the event that a member dies prior to his or
16 her actual retirement, any postretirement joint survivorship
17 pension election he or she made shall be deemed void.

18 "b. Death of Beneficiary Before Payments Commence.
19 In the event that a member elects a postretirement joint
20 survivorship pension and his or her beneficiary dies before
21 payments commence, then upon the beneficiary's death, the
22 member's election of the postretirement joint survivorship
23 pension shall be automatically canceled, and the member's
24 right to receive payments in accordance with subsections (a)
25 to (c), inclusive, of Section 45-37-123.100, as applicable,
26 shall be reinstated.

1 "c. Death of Both Member and Beneficiary-Refund.

2 Except as provided in the immediately following sentence, in
3 the event that a payment begins to the member, no refund of
4 employee contributions shall be paid thereafter.

5 Notwithstanding the foregoing sentence, in the event that the
6 member and his or her beneficiary die, a refund shall be made
7 in accordance with Section 45-37-123.104(4)c.

8 "(2) DIVORCE. In the event that a married member
9 names his or her spouse as beneficiary, a subsequent divorce
10 of the member and the beneficiary shall not cancel an election
11 of a postretirement joint survivorship pension. However, in
12 the event that a member or beneficiary presents to the pension
13 board what the pension board believes to be a valid divorce
14 decree, settlement agreement, or domestic relations order,
15 collectively, a DRO, that provides for a waiver or forfeiture
16 of the postretirement joint survivorship pension, then such
17 waiver or forfeiture shall be recognized by the pension board,
18 and, accordingly, the postretirement joint survivorship
19 pension shall be deemed void, and the member's monthly pension
20 benefit shall thereafter pop-up to the amount that would have
21 been payable to the member under subsections (a) to (c) of
22 Section 45-37-123.100, as applicable, as if the member had
23 never elected a postretirement joint survivorship pension.
24 Such pop-up shall occur in the month following the pension
25 board's receipt and approval of the DRO. The member shall not
26 be allowed to ~~continue any survivor benefits by designating~~
27 ~~another beneficiary~~ elect another joint survivorship pension.

1 See also Section 45-37-123.194(a) for additional rules
2 relating to certain DROs.

3 "(f) Beneficiary designation. Any beneficiary
4 designation made by a member for a preretirement joint
5 survivorship pension shall automatically lapse upon the
6 member's retirement or other termination of employment, and
7 such member shall complete new forms, to be provided by the
8 pension board, to designate a beneficiary of any
9 postretirement joint survivorship pension, in accordance with
10 Section 45-37-123.103(d).

11 "(g) Proof of death and marriage. The pension board
12 may require proper proof of death or marriage in accordance
13 with Section 45-37-123.103(f).

14 "§45-37-123.102.

15 "(a) Non-service connected disability benefits. Sub-
16 ject to subsection (h), any member who, after accumulating 10
17 years of paid membership time, experiences a total disability
18 as a result of a non-service connected disability shall be
19 entitled to receive, at the time set forth in subsection (e),
20 monthly disability retirement benefits determined in accor-
21 dance with Section 45-37-123.100, as though the disabled mem-
22 ber were entitled to a superannuation retirement benefit at
23 the commencement of the disability; however, there shall be a
24 percentage reduction of such benefit to reflect early
25 commencement of the payment, such percentage to be based on
26 the member's whole years from actual eligibility for a super-
27 annuation retirement benefit, as set forth below.

1 Notwithstanding any provisions to the contrary, the minimum
2 monthly disability retirement benefit payable in connection
3 with a non-service connected disability occurring before the
4 effective date of the act adding this amendatory language,
5 shall be 50 percent of the monthly compensation the member was
6 receiving at the time he or she experienced a total
7 disability.

8	"Number of Whole Years Until	
9	Eligibility for	Percentage Reduction of
10	Superannuation Retirement	Superannuation Retirement
11	Benefit	Benefit
12	"1	93%
13	"2	87%
14	"3	82%
15	"4	77%
16	"5	72%
17	"6	68%
18	"7	64%
19	"8	60%
20	"9	57%
21	"10	54%
22	"11 or more	50%

1 "(b) Service connected disability benefits. Subject
2 to subsection (h), any member who experiences a total
3 disability as a result of a service connected disability shall
4 be entitled to receive monthly disability retirement benefits
5 in an amount equal to 60 percent of the member's monthly
6 compensation that he or she was receiving at the time he or
7 she experienced a total disability.

8 "(c) Partial disability benefits. In the event that
9 a member experiences a partial disability in connection with
10 either a non-service connected disability or a service
11 connected disability, the pension board and its medical
12 advisor shall determine the percentage of disability suffered,
13 and the member shall be entitled to the proportion of the
14 amount which would have been payable if the disability were a
15 total disability.

16 "(d) Disqualification from receipt of disability
17 benefits. No disability retirement benefits shall be paid if
18 the use of intoxicating liquor, narcotic drugs, or willful
19 misconduct of the disabled member caused, or substantially
20 contributed to, the disability or if the cause of the
21 disability was voluntarily and willfully caused by the
22 disabled member.

23 "(e) Timing of payment. Payment of disability
24 retirement benefits provided for by this section shall
25 commence when the member separates from employment with the
26 county and ceases to receive his or her compensation subject

1 to the employee contribution requirements set forth in Section
2 45-37-123.80 and once a determination of disability has been
3 made by the pension board.

4 "(f) Reexamination of members receiving disability
5 benefits. Disability retirement benefits under this section
6 shall only continue for such time as the member continues to
7 experience a total disability, or a partial disability as
8 determined under subsection (c). The pension board may require
9 any member receiving disability retirement benefits to submit
10 to a medical examination by the medical advisor. If the member
11 refuses to undergo the medical examination ordered by the
12 pension board, the member's disability retirement benefits may
13 be discontinued until the member consents to the examination.
14 If a member's disability retirement benefits are discontinued
15 based on the member's refusal to allow a reexamination by the
16 medical advisor, the member shall wholly lose such benefits
17 between the date of the member's refusal or failure to allow
18 the examination and the date of examination thereafter made.
19 Should the medical advisor report to the pension board that
20 the member receiving disability retirement benefits is able to
21 resume his or her usual occupation, such member shall be
22 restored to his or her former position if the member's
23 position is in the service of the county; otherwise, the
24 member shall be placed on the appropriate layoff list of the
25 county and shall not receive any additional payments for
26 disability on and after the date the member is reemployed by
27 the county or fails or refuses to accept such reemployment. If

1 the member is reemployed by the county, the member shall
2 resume employee contributions immediately upon reemployment in
3 accordance with Section 45-37-123.80. Provided however, the
4 pension board shall in no case make additional disability
5 retirement benefit payments to a member on a particular
6 disability claim beyond six months from the date the medical
7 advisor reports to the pension board that the member is able
8 to resume his or her usual occupation.

9 "(g) Ineligibility for joint survivorship pension
10 option. A member electing a disability retirement benefit
11 shall not be entitled to elect a joint survivorship pension
12 provided under Section 45-37-123.101, though ~~such~~ a member may
13 elect a 25-year early retirement benefit if such member has
14 met the eligibility requirements set forth in Section
15 45-37-123.100 (b) (2).

16 "(h) Ineligibility for disability retirement benefit
17 if eligible for a superannuation retirement benefit. In the
18 event that a member is eligible for a superannuation
19 retirement benefit pursuant to Section ~~45-37-123.1(a)~~
20 45-37-123.100(a), such member shall not be eligible for a
21 disability retirement benefit.

22 "(i) Death. If a member dies while receiving payment
23 of a disability retirement benefit, the return of any
24 remaining portion of his or her employee contributions shall
25 be governed by Section 45-37-123.104(5)d. If the member has
26 received payments in an amount at least equal to the amount of
27 employee contributions he or she made to the plan at the time

1 of death, then no further payments shall be made upon the
2 member's death.

3 "§45-37-123.103.

4 "(a) Preretirement death benefits. A vested member's
5 beneficiary is entitled to a preretirement joint survivorship
6 pension, as described below.

7 "(1) MARRIED MEMBER. If a married, active member
8 dies, then the beneficiary may elect, on a form provided by
9 the pension board, to be paid in one of the following forms:

10 "a. One Hundred Percent Preretirement Joint
11 Survivorship Pension. If such member was eligible for a
12 deferred retirement benefit at the time of the member's death,
13 then the beneficiary may elect to be paid in the form of a 100
14 percent preretirement joint survivorship pension, which is a
15 monthly annuity paid during the beneficiary's lifetime which
16 is equal to the actuarial equivalent of the benefits that
17 would have been paid to the member if, instead of dying, the
18 member had terminated employment; ~~or.~~

19 "b. Refund. The beneficiary may elect a refund of
20 the member's employee contributions in accordance with Section
21 45-37-123.104(4)b.

22 "(2) UNMARRIED MEMBER. If an unmarried, active
23 member dies, then one of the following shall apply:

24 "a. Preretirement Joint Survivorship Pension. If a
25 member becomes eligible for a deferred retirement benefit,
26 then the member may elect, on a form provided by the pension
27 board, a 100 percent preretirement joint survivorship pension,

1 which is a monthly annuity paid during the beneficiary's
2 lifetime which is equal to the actuarial equivalent of the
3 benefits that would have been paid to the member if, instead
4 of dying, the member had terminated employment. In the event
5 the beneficiary dies before the member or in the event the
6 member marries, any election of a preretirement joint
7 survivorship pension automatically shall be revoked and the
8 cost, as described in subdivision (2) of subsection (c), for
9 the preretirement coverage shall cease to accumulate on the
10 date of death of the beneficiary or the member's date of
11 marriage, as applicable.

12 "b. Refund. Regardless of whether the member makes
13 an election for the beneficiary to be paid in the form of a
14 preretirement joint survivorship pension in accordance with
15 paragraph a., upon the member's death, the beneficiary can
16 elect to be paid a refund of the member's employee
17 contributions in accordance with Section 45-37-123.104(4)b.
18 instead of being paid a preretirement joint survivorship
19 pension.

20 "(b) Timing of payments. In the event of an election
21 of a preretirement joint survivorship pension, such payment
22 shall begin as soon as administratively feasible after the
23 pension board is notified of the death. In any event,
24 calculation of the amount of the death benefit shall be made
25 as of the day after the date of death and any payments that do
26 not occur as of the month following the date of death shall be
27 included in future payments. In the event that a refund is to

1 be paid, such payment shall be made as soon as
2 administratively feasible following the member's death.

3 "(c) Cost of preretirement joint survivorship
4 pension.

5 "(1) MARRIED MEMBERS.

6 "a. On and After October 1, 1999. On and after
7 October 1, 1999, the 100 percent preretirement joint
8 survivorship pension shall be provided without additional
9 charge with respect to a member who is married at the time of
10 his or her death, and the cost of such benefit shall be borne
11 by the system; however, in the event that a member designates
12 a non-spousal beneficiary in accordance with subdivision
13 (d) (1), the cost of such benefit shall be borne by the
14 member's beneficiary.

15 "b. Prior to October 1, 1999. Prior to October 1,
16 1999, a 50 percent preretirement joint survivorship pension
17 was provided to a member who was married at the time of his or
18 her death, instead of 100 percent, and such members and their
19 beneficiaries had an option to elect higher percentages under
20 certain rules. Members and beneficiaries who elected a higher
21 than 50 percent preretirement joint survivorship pension prior
22 to October 1, 1999, shall be charged for the increased
23 percentage according to actuarially-calculated costs,
24 beginning with the date of the election through September 30,
25 1999.

26 "(2) UNMARRIED MEMBERS. To the extent that a member
27 who is not married at the time of his or her death previously

1 elected payment of a preretirement joint survivorship pension
2 for his or her beneficiary, the benefit otherwise payable to
3 the member shall be actuarially reduced to reflect the
4 ~~survivorship benefits~~ the election of a joint survivorship
5 pension.

6 "(d) Beneficiaries.

7 "(1) PRERETIREMENT JOINT SURVIVORSHIP PENSION FOR A
8 MARRIED MEMBER. Unless otherwise elected in the manner
9 prescribed below, the beneficiary of a preretirement joint
10 survivorship pension of a member that is married at the time
11 of his or her death shall be the member's surviving spouse.
12 Except, however, a member may designate a beneficiary other
13 than the spouse if:

14 "a. The spouse has waived the right to be the
15 member's beneficiary; or

16 "b. The member has been abandoned, within the
17 meaning of local law, and the member has a court order to such
18 effect; or

19 "c. The member has no spouse.

20 "(2) ALL OTHER DEATH BENEFITS. Except as provided in
21 subdivision (1), a member, whether married or not, may
22 designate any beneficiary, and may do so without the need of
23 the consent of a spouse for a nonspousal beneficiary
24 designation.

25 "(3) FORMS. Designation of a beneficiary shall be
26 made on a form provided by the pension board. A member may at
27 any time revoke a designation of a beneficiary or change a

1 beneficiary by filing written notice of ~~such~~ revocation or
2 change with the pension board on a form provided by the
3 pension board. However, in the case of a preretirement joint
4 survivorship pension, the member's spouse shall again consent
5 in writing to any change in beneficiary unless the original
6 consent acknowledged that the spouse had the right to limit
7 consent only to a specific beneficiary and that the spouse
8 voluntarily elected to relinquish such right. For a spouse's
9 waiver to be valid, the signature of the spouse executing such
10 form shall be notarized. This consent to waiver shall become
11 irrevocable upon the death of the member.

12 "(4) FAILURE TO DESIGNATE A BENEFICIARY OR LACK OF
13 BENEFICIARY. In the event no valid designation of beneficiary
14 exists, or if the beneficiary is not alive at the time of the
15 member's death, the death benefit shall be payable to the
16 member's spouse if there is a spouse, and if there is no
17 spouse, to the member's estate. If there is no estate, the
18 death benefit may be interpleaded into a court of competent
19 jurisdiction. Additionally, if the beneficiary does not
20 predecease the member, but dies prior to the distribution of
21 the death benefit, the death benefit shall be paid to the
22 beneficiary's estate. If there is no estate, the death benefit
23 may be interpleaded into a court of competent jurisdiction.

24 "(5) MORE THAN ONE BENEFICIARY. In the event that
25 more than one primary beneficiary is designated and a
26 designated primary beneficiary dies, absent any direction on
27 the beneficiary designation form to the contrary, the member's

1 benefit shall be divided equally among the remaining primary
2 beneficiaries.

3 "(6) DESIGNATION OF NONPERSONS AS BENEFICIARIES. A
4 member may designate a nonperson as a beneficiary, for
5 example, a trust or estate. In such event, the pension board
6 may require additional documentation, for example, trust
7 documents.

8 "(7) LAPSE OF BENEFICIARY DESIGNATION. Any
9 beneficiary designation made by a member for a preretirement
10 joint survivorship pension or refund shall automatically lapse
11 upon the member's election of a postretirement joint
12 survivorship pension; at that time, the member shall complete
13 new forms, to be provided by the pension board, to designate a
14 beneficiary of any postretirement joint survivorship pension.

15 "(8) EFFECT OF MARRIAGE OR DIVORCE UPON A
16 BENEFICIARY DESIGNATION. Except in the case of a preretirement
17 joint survivorship pension, marriage or divorce does not
18 change any previous beneficiary designation. In the case of a
19 preretirement joint survivorship pension, if an unmarried
20 member gets married, such member's spouse shall automatically
21 become the member's beneficiary, which can thereafter be
22 waived in accordance with subdivision (1).

23 "(9) DISTRIBUTION FOR MINOR OR INCOMPETENT
24 BENEFICIARY. In the event a distribution is to be made to a
25 minor or incompetent beneficiary, then the pension board may
26 direct that such distribution be paid to the legal guardian,
27 or if none in the case of a minor beneficiary, to a parent of

1 such beneficiary or a responsible adult with whom the
2 beneficiary maintains residence, or to the custodian for such
3 beneficiary under the Uniform Gift to Minors Act or Gift to
4 Minors Act, if ~~such is~~ permitted by the laws of the state in
5 which the beneficiary resides. Such a payment to the legal
6 guardian, custodian, or parent of a minor beneficiary shall
7 fully discharge the trustee, the county, the pension board,
8 and the plan from further liability on account thereof. The
9 pension board may require evidence of guardianship, existence
10 of custodial accounts, or any other documentation that is
11 deemed prudent to establish that payment shall be made
12 properly.

13 "(e) Other death benefits. Upon a member's
14 retirement or other termination of employment, any
15 preretirement joint survivorship pension benefit coverage
16 ceases. Any other benefits to be paid upon the death of a
17 member or beneficiary, such as refunds, are governed by
18 Section 45-37-123.104(4).

19 "(f) Proof of death and marriage. The pension board
20 may require ~~such~~ proper proof of death and marriage and ~~such~~
21 evidence of the right of any person to receive the death
22 benefit payable as a result of the death of a member as the
23 pension board may deem desirable. ~~Such proof~~ Proof may include
24 a certified marriage certificate, certified death certificate
25 of the member, and affidavits of relatives, members, or other
26 persons knowledgeable of the fact of marriage. If no marriage
27 certificate is available and for common law marriage, proof

1 shall include evidence of the existence of the marriage as may
2 be required by law and also may require indemnification and
3 hold harmless agreements. The pension board may require that
4 unclear cases be adjudicated in an appropriate court
5 proceeding. An unmarried member may be required by the pension
6 board to sign an affidavit to certify that such member is not
7 married. The pension board's determination of death benefits
8 and the right of any person to receive payment shall be
9 conclusive.

10 "§45-37-123.104.

11 "The following provisions generally govern a
12 member's withdrawal and refund of employee contributions under
13 the plan. Any member who fails to make application for the
14 amount of his or her employee contributions pursuant to this
15 section within five years after his or her separation from the
16 service of the county, except as otherwise provided herein or
17 otherwise determined by the pension board, shall be deemed to
18 have forfeited and donated such employee contributions to the
19 trust fund pursuant to Section 45-37-123.83. The foregoing
20 five year rule only applies to a member; in the case of a
21 beneficiary, the pension board may only forfeit employee
22 contributions after it has exhausted reasonable efforts to
23 locate the beneficiary.

24 "(1) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY MEMBERS
25 NOT ENTITLED TO A DEFERRED RETIREMENT BENEFIT. In the event
26 that a member ceases to be an employee of the county for
27 reasons other than retirement, death, or disability before he

1 or she is eligible for a deferred retirement benefit, such
2 member, upon written application therefore to the pension
3 board, shall be paid the full amount of his or her employee
4 contributions, without interest.

5 "(2) WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS BY MEMBERS
6 ENTITLED TO A DEFERRED RETIREMENT BENEFIT.

7 "a. General Rule. Subject to the limitations stated
8 in paragraph b., in the event that a member ceases to be an
9 employee of the county for reasons other than retirement,
10 death, or disability when he or she is eligible for a deferred
11 retirement benefit, but has not elected a deferred retirement
12 benefit, such member, upon written application therefore to
13 the pension board, shall be paid the full amount of his or her
14 employee contributions, with interest. The provisions of
15 Section 45-37-123.100(c)(1)b. shall govern the withdrawal of
16 employee contributions for any member who has elected a
17 deferred retirement benefit, but has not yet been paid.

18 "b. Rules and Regulations. The pension board shall
19 establish rules and regulations setting forth the amount of
20 interest payable to members under this subdivision. In
21 establishing such rules and regulations, the pension board
22 shall take into consideration the interest the system has
23 earned on the employee contributions paid into the trust fund
24 on account of the member withdrawing such employee
25 contributions. The pension board may amend such rules and
26 regulations at any time in its sole discretion.

1 "(3) PARTIAL REFUND OF EMPLOYEE CONTRIBUTIONS AND
2 CESSATION OF EMPLOYEE CONTRIBUTIONS AND EMPLOYER
3 CONTRIBUTIONS. When a member attains 30 years of paid
4 membership time, the member may elect to terminate his or her
5 employee contributions by filing with the pension board a
6 statement signed by the member stating that he or she elects
7 to terminate his or her employee contributions; in such case,
8 the employer contribution to the trust fund on the member's
9 behalf shall cease. As soon as practicable after a member
10 files such statement, the pension board shall refund to him or
11 her all employee contributions, without interest, made by him
12 or her to the trust fund subsequent to the date on which the
13 member accumulated sufficient service to entitle him or her to
14 the maximum benefit that can be provided under the plan;
15 additionally the pension board shall refund to the county any
16 associated employer contributions, without interest.

17 "(4) REFUNDS UPON DEATH OF A MEMBER.

18 "a. Refund of Employee Contributions for Deceased,
19 Nonvested Active Members Not Entitled to Deferred Retirement
20 Benefits. If a nonvested active member dies, then an amount
21 equal to the total amount of such member's employee
22 contributions, without interest, ~~shall~~ may be refunded to the
23 member's beneficiary in ~~one~~ lump sum payment form.

24 "b. Refund of Employee Contributions for Deceased,
25 Vested Members Entitled to Deferred Retirement Benefits, but
26 No Payments Have Commenced.

1 "1. Eligibility. Unless an election has been made in
2 accordance with Section 45-37-123.103 to receive a
3 preretirement joint survivorship pension, if a vested member
4 dies, before payments have commenced, then an amount equal to
5 the total amount of such member's employee contributions, with
6 interest, shall be refunded to the member's beneficiary in ~~one~~
7 lump sum ~~payment~~ form. This rule shall apply regardless of
8 whether the member dies while active, or after a deferred
9 retirement election has been made, so long as payments have
10 not commenced.

11 "2. Rules and regulations. The pension board is
12 authorized to adopt interest rules and regulations providing
13 for the pension board to pay to a beneficiary interest at the
14 rate prescribed in such rules on the member's employee
15 contributions that are to be refunded to the beneficiary. The
16 interest rules and regulations established shall prescribe the
17 terms and conditions on which such interest shall be payable
18 and may impose such limitations on the payment of interest as
19 the pension board deems appropriate.

20 "c. Refund of Employee Contributions for Deceased
21 Members Who Previously Elected a Postretirement Joint
22 Survivorship Pension.

23 "1. Eligibility - Retired member. Subject to items
24 (i) to (iii), inclusive, of subparagraph 2., if a retired
25 member dies after a postretirement joint survivorship pension
26 has been elected, then a refund may be paid in ~~one~~ lump sum
27 form only as set forth in subparagraph 2.

1 "2. Rules and regulations. The pension board is
2 authorized to adopt rules and regulations providing for the
3 pension board to refund a member's employee contributions
4 after such member dies with a postretirement joint
5 survivorship pension election in place and to pay interest on
6 any such refund, subject to the conditions and limitations
7 stated below:

8 "(i) Such postretirement joint survivorship pension
9 election shall not be repealed or rescinded but shall be in
10 effect at the time of the refund, and the member shall have
11 enough service at the time of his or her death to be entitled
12 to a deferred retirement benefit if a refund were not made;
13 and

14 "(ii) Both the member and the member's primary
15 beneficiary shall be deceased, thus, no refund is payable in
16 the event that only the member dies while receiving payment of
17 a postretirement joint survivorship pension; and

18 "(iii) The member's employee contributions shall
19 exceed the sum of all monthly retirement benefits the plan has
20 paid to the member and/or the member's beneficiary.

21 "3. Amount of refund. If each of the requirements in
22 subparagraph 1. and subparagraph 2. are met, and the pension
23 board has adopted rules and regulations in accordance with
24 subparagraph 2., then the amount of the refund shall be equal
25 to the amount by which the member's employee contributions
26 exceed the sum of all monthly retirement benefits the plan has
27 paid to such member and/or such member's beneficiary, with

1 interest as provided by rules and regulations adopted by the
2 pension board.

3 "4. Payment made to contingent beneficiary. A refund
4 pursuant to this paragraph shall be paid to the member's
5 designated contingent beneficiary, or, to the member's estate
6 if the contingent beneficiary also is deceased or there is no
7 other properly designated contingent beneficiary.

8 "5. Death while active member. In the event that an
9 active member dies after a postretirement joint survivorship
10 pension has been elected, such election shall be deemed void
11 and the provisions of Section 45-37-123.103(a), preretirement
12 death benefits, shall apply.

13 "d. Refund of Employee Contributions for Deceased
14 Members Who Were Receiving Superannuation, Early, Disability,
15 or Deferred Retirement Benefit Payments. In the event that a
16 member dies while receiving a superannuation retirement
17 benefit, an early retirement benefit, a disability retirement
18 benefit, or a deferred retirement benefit, then his or her
19 beneficiary shall be entitled to receive a refund in an amount
20 equal to the amount by which the member's employee
21 contributions exceed the sum of all monthly retirement
22 benefits the plan has paid to such member, with interest.

23 "e. Proof of Death and Marriage. The pension board
24 may require proper proof of death or marriage in accordance
25 with Section 45-37-123.103(f).

26 "(5) EMPLOYER CONTRIBUTIONS REMAIN IN TRUST FUND.
27 Employer contributions are never refunded to the member or the

1 member's beneficiary. All associated employer contributions
2 shall remain in the trust fund, except such employer
3 contributions that are returned to the county pursuant to
4 subdivision (7).

5 "(6) CESSATION OF EMPLOYMENT. Unless otherwise
6 specifically provided in the plan, such as, pursuant to
7 subdivision (7), a member shall cease to be an employee of the
8 county in order to receive a refund of employee contributions.

9 "(7) REFUNDS TO CORRECT ERRORS. The pension board,
10 in its sole discretion, may refund employee contributions and
11 associated employer contributions to the county to correct
12 various errors, such as, inclusion in the plan of an
13 ineligible individual or overpayment of employee
14 contributions, in accordance with Section 45-37-123.23(b).

15 "(8) NO REFUNDS FOR QUALIFIED MILITARY SERVICE.
16 There shall be no refund of any contributions attributable to
17 amounts that the county restores pursuant to Section
18 45-37-123.80(b) due to a member's qualified military service.

19 "(9) TIMING OF REFUND PAYMENTS. In the event that a
20 refund is to be paid, such payment shall be made as soon as
21 administratively practical following the date upon which
22 entitlement to the refund occurs.

23 "(10) REFUND TO INCLUDE AMOUNTS TRANSFERRED FROM
24 457(b) PLAN. In the event that any member transfers amounts
25 from a § 457(b), Internal Revenue Code, plan in accordance
26 with Section 45-37-123.190(b), a refund shall include such
27 transferred amounts, with interest if the member is vested.

1 "§45-37-123.106.

2 "(a) General rules.

3 "(1) EFFECTIVE DATE. Except as otherwise provided
4 herein, the provisions of this section shall apply for
5 purposes of determining required minimum distributions for
6 calendar years beginning on and after January 1, 1987.

7 "(2) REQUIREMENTS OF TREASURY REGULATIONS
8 INCORPORATED. All distributions required under this section
9 shall be determined and made in accordance with § 401(a)(9),
10 Internal Revenue Code, including the incidental death benefit
11 requirement in § 401(a)(9)(G), and the regulations thereunder.

12 "(3) PRECEDENCE. Subject to the joint and survivor
13 annuity requirements of the plan, the requirements of this
14 section shall take precedence over any inconsistent provisions
15 of the plan.

16 "(b) Time and manner of distribution.

17 "(1) REQUIRED BEGINNING DATE. The member's entire
18 interest shall be distributed, or begin to be distributed, to
19 the member no later than the member's required beginning date.

20 "(2) DEATH OF MEMBER BEFORE DISTRIBUTIONS BEGIN. If
21 the member dies before distributions begin, the member's
22 entire interest shall be distributed, or begin to be
23 distributed, no later than as follows:

24 "a. Life Expectancy Rule, Spouse is Beneficiary. At
25 the election of the member or, if no election is made by the
26 member, then at the election of the member's designated
27 beneficiary, if the member's surviving spouse is the member's

1 sole designated beneficiary, then distributions to the
2 surviving spouse shall begin by December 31st of the calendar
3 year immediately following the calendar year in which the
4 member died, or by December 31st of the calendar year in which
5 the member would have attained age ~~70-1/2~~ 72, if later.

6 "b. Life Expectancy Rule, Spouse is Not Beneficiary.

7 At the election of the member or, if no election is made by
8 the member, then at the election of the member's designated
9 beneficiary, if the member's surviving spouse is not the
10 member's sole designated beneficiary, then distributions to
11 the designated beneficiary shall begin by December 31st of the
12 calendar year immediately following the calendar year in which
13 the member died.

14 "c. Five-Year Rule.

15 "1. At the election of the member or, if no election
16 is made by the member, then at the election of the member's
17 designated beneficiary, if the member dies before
18 distributions begin and there is a designated beneficiary,
19 then the member's entire interest shall be distributed to the
20 designated beneficiary by December 31st of the calendar year
21 containing the fifth anniversary of the member's death. If the
22 member's surviving spouse is the member's sole designated
23 beneficiary and the surviving spouse dies after the member but
24 before distributions to either the member or the surviving
25 spouse begin, then this paragraph shall apply as if the
26 surviving spouse were the member. This paragraph shall apply
27 to all distributions.

1 "2. Members or beneficiaries may elect on an
2 individual basis whether the 5-year rule in this paragraph or
3 the life expectancy rule in paragraph a. or paragraph b., and
4 subsection (e) applies to distributions after the death of a
5 member who has a designated beneficiary. The election shall be
6 made no later than the earlier of September 30th of the
7 calendar year in which distribution would be required to begin
8 under paragraph a. or paragraph b., or by September 30th of
9 the calendar year which contains the fifth anniversary of the
10 member's, or, if applicable, surviving spouse's, death under
11 this paragraph. If neither the member nor beneficiary makes an
12 election under this subparagraph, distributions shall be made
13 in accordance with paragraph a. or paragraph b., and
14 subsection (e).

15 "d. No Designated Beneficiary, Five-Year Rule. If
16 there is no designated beneficiary as of September 30th of the
17 year following the year of the member's death, the member's
18 entire interest shall be distributed by December 31st of the
19 calendar year containing the fifth anniversary of the member's
20 death.

21 "e. Surviving Spouse Dies Before Distributions
22 Begin.

23 "1. If the member's surviving spouse is the member's
24 sole designated beneficiary and the surviving spouse dies
25 after the member but before distributions to the surviving
26 spouse begin, then this subsection, other than paragraph a.,
27 shall apply as if the surviving spouse were the member.

1 "2. For purposes of this subsection and subsection
2 (e), distributions are considered to begin on the member's
3 required beginning date, or, if this paragraph applies, the
4 date distributions are required to begin to the surviving
5 spouse under paragraph a. If annuity payments irrevocably
6 commence to the member before the member's required beginning
7 date, or to the member's surviving spouse before the date
8 distributions are required to begin to the surviving spouse
9 under paragraph a., the date distributions are considered to
10 begin is the date distributions actually commence.

11 "(3) FORM OF DISTRIBUTION. Unless the member's
12 interest is distributed in the form of an annuity purchased
13 from an insurance company or in a single sum on or before the
14 required beginning date, as of the first distribution calendar
15 year distributions shall be made in accordance with
16 subsections (c), (d), and (e). If the member's interest is
17 distributed in the form of an annuity purchased from an
18 insurance company, distributions thereunder shall be made in
19 accordance with the requirements of § 401(a)(9), Internal
20 Revenue Code, and the regulations thereunder. Any part of the
21 member's interest which is in the form of an individual
22 account described in § 414(k), Internal Revenue Code, shall be
23 distributed in a manner satisfying the requirements of §
24 401(a)(9) and the regulations thereunder applicable to
25 individual accounts.

26 "(c) Determination of amount to be distributed each
27 year.

1 "(1) GENERAL ANNUITY REQUIREMENTS. A member who is
2 required to begin payments as a result of attaining his or her
3 required beginning date, whose interest has not been
4 distributed in the form of an annuity purchased from an
5 insurance company or in a single sum before such date, may
6 receive ~~such~~ payments in the form of annuity payments under
7 the plan. Payments under such annuity shall satisfy the
8 following requirements:

9 "a. The annuity distributions shall be paid in
10 periodic payments made at intervals not longer than one year7.

11 "b. The distribution period shall be over a life, or
12 lives, or over a period certain not longer than the period
13 described in subsection (d) or subsection (e)7.

14 "c. Once payments have begun over a period certain,
15 the period certain shall not be changed even if the period
16 certain is shorter than the maximum permitted.

17 "d. Payments shall either be nonincreasing or
18 increase only to the extent permitted by one of the following
19 conditions:

20 "1. By an annual percentage increase that does not
21 exceed the annual percentage increase in a cost-of-living
22 index that for a 12-month period ending in the year during
23 which the increase occurs or the prior year7.

24 "2. By a percentage increase that occurs at
25 specified times, such as, at specified ages, and does not
26 exceed the cumulative total of annual percentage increases in
27 an eligible cost-of-living index since the annuity starting

1 date, or if later, the date of the most recent percentage
2 increase. In cases providing ~~such~~ a cumulative increase, an
3 actuarial increase may not be provided to reflect the fact
4 that increases were not provided in the interim years7.

5 "3. To the extent of the reduction in the amount of
6 the member's payments to provide for a survivor benefit upon
7 death, but only if the beneficiary whose life was being used
8 to determine the distribution period described in subsection
9 (d) dies or is no longer the member's beneficiary pursuant to
10 a qualified domestic relations order within the meaning of §
11 414(p), Internal Revenue Code7.

12 4. To allow a beneficiary to convert the survivor
13 portion of a joint and survivor annuity into a single sum
14 distribution upon the member's death7.

15 "5. To pay increased benefits that result from a
16 plan amendment or other increase in the member's accrued
17 benefit under the plan7.

18 "6. By a constant percentage, applied not less
19 frequently than annually, at a rate that is less than five
20 percent per year7.

21 "7. To provide a final payment upon the death of the
22 member that does not exceed the excess of the actuarial
23 present value of the member's accrued benefit, within the
24 meaning of § 411(a)(7), Internal Revenue Code, calculated as
25 of the annuity starting date using the applicable interest
26 rate and the applicable mortality table under § 417(e),
27 Internal Revenue Code, or, if greater, the total amount of

1 employee contributions, over the total of payments before the
2 death of the member; ~~or.~~

3 "8. As a result of dividend or other payments that
4 result from actuarial gains, provided:

5 "(i) Actuarial gain is measured not less frequently
6 than annually;

7 "(ii) The resulting dividend or other payments are
8 either paid no later than the year following the year for
9 which the actuarial experience is measured or paid in the same
10 form as the payment of the annuity over the remaining period
11 of the annuity, beginning no later than the year following the
12 year for which the actuarial experience is measured;

13 "(iii) The actuarial gain taken into account is
14 limited to actuarial gain from investment experience;

15 "(iv) The assumed interest rate used to calculate
16 such actuarial gains is not less than three percent; and

17 "(v) The annuity payments are not also being
18 increased by a constant percentage as described in
19 subparagraph 6.

20 "(2) AMOUNT REQUIRED TO BE DISTRIBUTED BY REQUIRED
21 BEGINNING DATE.

22 "a. In the case of a member whose interest in the
23 plan is being distributed as an annuity pursuant to
24 subdivision (1), the amount that shall be distributed on or
25 before the member's required beginning date, or, if the member
26 dies before distributions begin, the date distributions are
27 required to begin under paragraph a. or b. of subdivision ~~(c)~~

1 (2) of subsection (b), is the payment that is required for one
2 payment interval.

3 "The second payment need not be made until the end
4 of the next payment interval even if that payment interval
5 ends in the next calendar year.

6 "Payment intervals are the periods for which
7 payments are received, such as, bimonthly, monthly,
8 semi-annually, or annually. All of the member's benefit
9 accruals as of the last day of the first distribution calendar
10 year shall be included in the calculation of the amount of the
11 annuity payments for payment intervals ending on or after the
12 member's required beginning date.

13 "b. In the case of a single sum distribution of a
14 member's entire accrued benefit during a distribution calendar
15 year, the amount that is the required minimum distribution for
16 the distribution calendar year, and thus not eligible for
17 rollover under § 402(c), Internal Revenue Code, is determined
18 under this paragraph. The portion of the single sum
19 distribution that is a required minimum distribution is
20 determined by treating the single sum distribution as a
21 distribution from an individual account plan and treating the
22 amount of the single sum distribution as the member's account
23 balance as of the end of the relevant valuation calendar year.
24 If the single sum distribution is being made in the calendar
25 year containing the required beginning date and the required
26 minimum distribution for the member's first distribution
27 calendar year has not been distributed, the portion of the

1 single sum distribution that represents the required minimum
2 distribution for the member's first and second distribution
3 calendar year is not eligible for rollover.

4 "(3) ADDITIONAL ACCRUALS AFTER FIRST DISTRIBUTION
5 CALENDAR YEAR. Any additional benefits accruing to the member
6 in a calendar year after the first distribution calendar year
7 shall be distributed beginning with the first payment interval
8 ending in the calendar year immediately following the calendar
9 year in which such amount accrues. Notwithstanding the
10 preceding, the plan shall not fail to satisfy the requirements
11 of this subdivision and § 401(a)(9), Internal Revenue Code,
12 merely because there is an administrative delay in the
13 commencement of the distribution of the additional benefits
14 accrued in a calendar year, provided that the actual payment
15 of such amount commences as soon as practicable. However,
16 payment shall commence no later than the end of the first
17 calendar year following the calendar year in which the
18 additional benefit accrues, and the total amount paid during
19 such first calendar year shall be no less than the total
20 amount that was required to be paid during that year under
21 this subdivision.

22 "(4) DEATH OF MEMBER AFTER DISTRIBUTIONS BEGIN. If a
23 member dies after distribution of the member's interest begins
24 in the form of an annuity meeting the requirements of this
25 section, then the remaining portion of the member's interest
26 shall continue to be distributed over the remaining period
27 over which distributions commenced.

1 "(d) Requirements for annuity distributions that
2 commence during member's lifetime.

3 "(1) JOINT LIFE ANNUITIES WHERE THE BENEFICIARY IS
4 THE MEMBER'S SPOUSE. If distributions commence under a
5 distribution option that is in the form of a joint and
6 survivor annuity for the joint lives of the member and the
7 member's spouse, the minimum distribution incidental benefit
8 requirement shall not be satisfied as of the date
9 distributions commence unless, under the distribution option,
10 the periodic annuity payment payable to the survivor does not
11 at any time on and after the member's required beginning date
12 exceed the annuity payable to the member. In the case of an
13 annuity that provides for increasing payments, the requirement
14 of this subdivision shall not be violated merely because
15 benefit payments to the beneficiary increase, provided the
16 increase is determined in the same manner for the member and
17 the beneficiary. If the form of distribution combines a joint
18 and survivor annuity for the joint lives of the member and the
19 member's spouse and a period certain annuity, the preceding
20 requirements shall apply to annuity payments to be made to the
21 designated beneficiary after the expiration of the period
22 certain.

23 "(2) JOINT LIFE ANNUITIES WHERE THE BENEFICIARY IS
24 NOT THE MEMBER'S SPOUSE. If the member's interest is being
25 distributed in the form of a joint and survivor annuity for
26 the joint lives of the member and a beneficiary other than the
27 member's spouse, the minimum distribution incidental benefit

1 requirement shall not be satisfied as of the date
2 distributions commence unless under the distribution option,
3 the annuity payments to be made on and after the member's
4 required beginning date shall satisfy the conditions of this
5 subdivision. The periodic annuity payment payable to the
6 survivor shall not at any time on and after the member's
7 required beginning date exceed the applicable percentage of
8 the annuity payment payable to the member using the table set
9 forth in Treasury Regulation § 1.401(a)(9)-6, Q & A-2(c)(2).
10 The applicable percentage is based on the adjusted
11 member/beneficiary age difference. The adjusted
12 member/beneficiary age difference is determined by first
13 calculating the excess of the age of the member over the age
14 of the beneficiary based on their ages on their birthdays in a
15 calendar year. If the member is younger than age 70, the age
16 difference determined in the previous sentence is reduced by
17 the number of years that the member is younger than age 70 on
18 the member's birthday in the calendar year that contains the
19 annuity starting date. In the case of an annuity that provides
20 for increasing payments, the requirement of this subdivision
21 shall not be violated merely because benefit payments to the
22 beneficiary increase, provided the increase is determined in
23 the same manner for the member and the beneficiary. If the
24 form of distribution combines a joint and survivor annuity for
25 the joint lives of the member and a nonspouse beneficiary and
26 a period certain annuity, the preceding requirements shall

1 apply to annuity payments to be made to the designated
2 beneficiary after the expiration of the period certain.

3 "(3) PERIOD CERTAIN ANNUITIES. Unless the member's
4 spouse is the sole designated beneficiary and the form of
5 distribution is a period certain and no life annuity, the
6 period certain for an annuity distribution commencing during
7 the member's lifetime may not exceed the applicable
8 distribution period for the member under the Uniform Lifetime
9 Table set forth in Treasury Regulation § 1.401(a)(9)-9 for the
10 calendar year that contains the annuity starting date. If the
11 annuity starting date precedes the year in which the member
12 reaches age 70, the applicable distribution period for the
13 member is the distribution period for age 70 under the Uniform
14 Lifetime Table set forth in Treasury Regulation §
15 1.401(a)(9)-9 plus the excess of 70 over the age of the member
16 as of the member's birthday in the year that contains the
17 annuity starting date. If the member's spouse is the member's
18 sole designated beneficiary and the form of distribution is a
19 period certain and no life annuity, the period certain may not
20 exceed the longer of the member's applicable distribution
21 period, as determined under this subdivision, or the joint
22 life and last survivor expectancy of the member and the
23 member's spouse as determined under the Joint and Last
24 Survivor Table set forth in Treasury Regulation §
25 1.401(a)(9)-9, using the member's and spouse's attained ages
26 as of the member's and spouse's birthdays in the calendar year
27 that contains the annuity starting date.

1 "(e) Requirements for minimum distributions where
2 member dies before date distributions begin.

3 "(1) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND
4 LIFE EXPECTANCY RULE.

5 "At the election of the member or, if no election is
6 made by the member, then at the election of the member's
7 designated beneficiary, if the member dies before the date
8 distribution of his or her interest begins and there is a
9 designated beneficiary, the member's entire interest shall be
10 distributed, beginning no later than the time described in
11 paragraph a. or b. of subdivision (2) of subsection (b), over
12 the life of the designated beneficiary or over a period
13 certain not exceeding:

14 "a. Unless the annuity starting date is before the
15 first distribution calendar year, the life expectancy of the
16 designated beneficiary determined using the beneficiary's age
17 as of the beneficiary's birthday in the calendar year
18 immediately following the calendar year of the member's death;
19 or

20 "b. If the annuity starting date is before the first
21 distribution calendar year, the life expectancy of the
22 designated beneficiary determined using the beneficiary's age
23 as of the beneficiary's birthday in the calendar year that
24 contains the annuity starting date.

25 "(2) MEMBER SURVIVED BY DESIGNATED BENEFICIARY AND
26 FIVE-YEAR RULE. At the election of the member or, if no
27 election is made by the member, then at the election of the

1 member's designated beneficiary, if the member dies before
2 distributions begin and there is a designated beneficiary,
3 then the member's entire interest shall be distributed to the
4 designated beneficiary by December 31st of the calendar year
5 containing the fifth anniversary of the member's death. This
6 subdivision shall apply to all distributions.

7 "(3) NO DESIGNATED BENEFICIARY. If the member dies
8 before the date distributions begin and there is no designated
9 beneficiary as of September 30th of the year following the
10 year of the member's death, distribution of the member's
11 entire interest shall be completed by December 31st of the
12 calendar year containing the fifth anniversary of the member's
13 death.

14 "(4) DEATH OF SURVIVING SPOUSE BEFORE DISTRIBUTIONS
15 TO SURVIVING SPOUSE BEGIN. If the member dies before the date
16 distribution of his or her interest begins, the member's
17 surviving spouse is the member's sole designated beneficiary,
18 and the surviving spouse dies before distributions to the
19 surviving spouse begin, this subsection shall apply as if the
20 surviving spouse were the member, except that the time by
21 which distributions shall begin shall be determined without
22 regard to paragraph a. of subdivision (2) of subsection (b).

23 "(f) Definitions.

24 "(1) ACTUARIAL GAIN. The difference between an
25 amount determined using the actuarial assumptions, such as,
26 investment return, mortality, expense, and other similar
27 assumptions, used to calculate the initial payments before

1 adjustment for any increases and the amount determined under
2 the actual experience with respect to those factors. Actuarial
3 gain also includes differences between the amount determined
4 using actuarial assumptions when an annuity was purchased or
5 commenced and such amount determined using actuarial
6 assumptions used in calculating payments at the time the
7 actuarial gain is determined.

8 "(2) DESIGNATED BENEFICIARY. The individual who is
9 designated as the beneficiary under Section 45-37-123.103 and
10 is the designated beneficiary under § 401(a)(9), Internal
11 Revenue Code, and Treasury Regulation § 1.401(a)(9)-1, Q &
12 A-4.

13 "(3) DISTRIBUTION CALENDAR YEAR. A calendar year for
14 which a minimum distribution is required. For distributions
15 beginning before the member's death, the first distribution
16 calendar year is the calendar year immediately preceding the
17 calendar year which contains the member's required beginning
18 date. For distributions beginning after the member's death,
19 the first distribution calendar year is the calendar year in
20 which distributions are required to begin pursuant to
21 subsection (b).

22 "(4) ELIGIBLE COST-OF-LIVING INDEX. An index
23 described below:

24 "a. A consumer price index that is based on prices
25 of all items, or all items excluding food and energy, and
26 issued by the Bureau of Labor Statistics, including an index
27 for a specific population, such as urban consumers or urban

1 wage earners and clerical workers, and an index for a
2 geographic area or areas, such as a given metropolitan area or
3 state; or

4 "b. A percentage adjustment based on a
5 cost-of-living index described in paragraph a., or a fixed
6 percentage, if less. In any year when the cost-of-living index
7 is lower than the fixed percentage, the fixed percentage may
8 be treated as an increase in an eligible cost-of-living index,
9 provided it does not exceed the sum of:

10 "1. The cost-of-living index for that year; and

11 "2. The accumulated excess of the annual
12 cost-of-living index from each prior year over the fixed
13 annual percentage used in that year, reduced by any amount
14 previously utilized under this paragraph.

15 "c. A percentage adjustment based on the increase in
16 compensation for the position held by the member at the time
17 of retirement, and provided under the terms of the plan.

18 "(5) LIFE EXPECTANCY. The life expectancy as
19 computed by use of the Single Life Table in Treasury
20 Regulation § 1.401(a)(9)-9.

21 "(6) REQUIRED BEGINNING DATE. The April 1st of the
22 calendar year following the later of:

23 "a. The calendar year in which the member attains
24 age ~~70-1/2~~ 72; or

25 "b. The calendar year in which the member retires.

26 "§45-37-123.194.

1 "(a) Except as provided below and otherwise
2 specifically required by law, it shall be impossible by
3 operation of the plan or of the trust agreement, by
4 termination of either, by power of revocation or amendment, by
5 the happening of any contingency, by collateral arrangement,
6 or by any other means, for any part of the corpus or income of
7 any trust fund maintained pursuant to the plan or any funds
8 contributed thereto to be used for, or diverted to, purposes
9 other than the exclusive benefit of members, former members,
10 or their beneficiaries; and no funds of the system, whether in
11 cash, securities, or otherwise, nor any income or yield
12 thereof, shall be subject to or exacted on account of, any
13 tax; and no retirement or disability allowance or right to
14 return of contributions, or other benefits payable as set
15 forth in the plan, shall be assignable or be subject to
16 execution, levy, attachment, garnishment, or other legal
17 process. Accordingly, the plan shall not recognize any
18 domestic relations order attempting to provide a member's
19 benefits, or any portion thereof, to an alternate payee.

20 "(b) In the event that the county shall make an
21 excessive contribution under a mistake of fact, the pension
22 board, or its agent, may demand repayment of such excessive
23 contribution, and the trustees shall return such amount,
24 adjusted for any income or loss in value so long as such
25 amount is returned within one year of the date of the mistaken
26 contribution. Notwithstanding the immediately preceding
27 sentence, any ~~such~~ return shall be limited to an amount that,

1 in the judgment of the pension board, would not cause the
2 system to become actuarially unsound.

3 "(c) In the event that the plan makes an overpayment
4 to a member or beneficiary for any reason, such as,
5 miscalculation of a pension benefit or payment prior to the
6 time that the member or beneficiary was entitled to payment,
7 the pension board may elect to offset future pension payments
8 until such overpayment has been recouped by the trust fund.
9 ~~However, once a distribution has been made to a member or~~
10 ~~beneficiary, neither shall be allowed to voluntarily elect to~~
11 ~~repay the distribution to the plan.~~

12 "(d) Subject to applicable law, no person shall be
13 entitled to receive a deferred pension if his or her
14 separation from the service from the county is due to his or
15 her misappropriation of funds or property of the county, or to
16 moral delinquency on his or her part.

17 "(e) Subject to applicable law, if the board finds
18 that a member's service is terminated by resignation or
19 discharge, or otherwise, as a consequence of such member's
20 dishonesty in handling the monies or property of the county or
21 any department thereof, the member shall not be entitled to
22 any retirement or disability benefit, but he or she shall upon
23 application therefor be paid a refund of the full amount of
24 his or her employee contributions, less any benefits
25 previously paid to him or her.

1 "(f) Subject to applicable law, a member's or
2 beneficiary's benefit may be offset for obligations to the
3 county, the pension board, or the trust fund."

4 Section 2. All laws or parts of laws which conflict
5 with this act are repealed.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.